

DETAILED ACTION

Response to Amendment

The Preliminary Amendment of March 11, 2011 was not considered in the Office Action of March 15, 2011 because the Preliminary Amendment was entered after the search and preparation of the March 15, 2011 Office Action according to 37 CFR 1.115(b)(2).

Claims 1-13 were previously canceled. Claim 14 is amended. Claims 15-27 are newly added. Currently, Claims 14-27 are pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 15 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 15 recites the limitation "said first outer tube" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear as to whether the inner and outer tubes are the cannula bodies that slide relative to one another or an additional tubular structure. For examination purposes, it has been interpreted that the first and second cannula bodies are inner and outer tubes that slide relative to one another based on the Applicant's specification and drawings.

4. Claim 22 recites the limitations "said detent" and "said locking pocket" in line 4.

There is insufficient antecedent basis for this limitation in the claim. It appears that claim 22 may depend from claim 21 in order to correct the antecedent basis. For examination purposes, it has been interpreted that claim 22 depends from claim 21.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 14-19 and 21-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Desmond, US Publication No. 2004/0260246 A1.

7. Regarding claims 14 and 27, Desmond discloses, as shown in Fig. 4A, an adjustable length cannula (10, paragraph [0048]) comprising a pair of elongate telescopically interengaged cannula bodies (22, 28) having a generally tubular shape (Fig. 4A), a first one of the cannula bodies carrying a lug (post 76) which interengages with a length adjusting track (72) including a trough (70) in a second one of the cannula bodies, the trough formed radially through a peripheral wall of the second cannula body in communication with an inner bore of the second cannula body and extending longitudinally in the peripheral wall of the second cannula body (see Fig. 4A) and a

plurality of position defining lug receivers (radial elements 74', 74" or generally designated as 74, Fig. 4) that intersect the trough and extend circumferentially therefrom in the peripheral wall of the second cannula body (see Fig. 4A), the lug receivers being spaced longitudinally apart along the second cannula body (see Fig. 4A); the lug being slidably received in the track and the first cannula body being slidable telescopically relative to the second cannula body such that the lug is positionable adjacent a selected lug receiver and interengaged with the selected lug receiver by axially rotating the interengaged cannula bodies relative to one another to provisionally lock the first and second bodies together in one of multiple locking positions defined respectively by the lug receivers and thereby maintain the cannula at a selected cannula length (see paragraph [0048]).

8. Regarding claims 15-16, Desmond discloses that the first and second cannula bodies comprise an inner and outer tube and have generally cylindrical shapes (Fig. 4A, see also paragraph [0029], first and second members 22, 28 formed as cylinders).

9. Regarding claim 17, Desmond discloses that the second cannula body has a cannula head with a bore in communication with a central bore of the second cannula body (cannula body is hollow, paragraph [0028]).

10. Regarding claims 18-19, Desmond discloses that the trough is parallel to a central axis of the second cannula body (Fig. 4A, paragraph [0048]) and the position defining lug receivers extend perpendicularly to the trough and circumferentially about said second cannula body (Fig. 4A).

11. Regarding claim 21, Desmond discloses that the lug receiver includes a detent (radial element 74 has a detent that extends from the axial element 72) and a locking pocket (inside pocket of radial element 74) at a distal end of the lug receiver (Fig. 4A).

12. Regarding claim 22, Desmond discloses that the first and second bodies are telescopically manipulated to position the lug (76) adjacent a selected lug receiver (74), the interengaged first and second cannula bodies being rotated such that the lug slides over the detent of the lug receiver and into the locking pocket to hold the first and second cannula bodies together at a selected length defined by the interengaged lug and locking pocket (paragraph [0048], Fig. 4A).

13. Regarding claim 23, Desmond discloses that the second cannula body includes a distal end having a flexible flared edge lip (32d, Fig. 3B, paragraph [0042]) defining a gas seal (fluid tight seal effectuated by O-ring, 52, Fig. 3D, paragraph [0043]), the edge lip sealably interengaged with an interior surface of a central axis bore of the first cannula body (paragraph [0043]).

14. Regarding claim 24, Desmond discloses that the first cannula body includes a beveled proximal end (proximal end of first cannula body 32 has a beveled end 38, Fig. 2, paragraph [0035]).

15. Regarding claim 25, Desmond discloses that the first cannula body may have a conically tapered distal end (32a, Figs. 3A-3C) with a plurality of slots (48, Figs. 3A-3C) to allow for flexing of the distal end.

16. Regarding claim 26, Desmond discloses a threaded outer surface on the first cannula body (threads 54, see Fig. 3E, paragraph [0044]).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Desmond.

19. Desmond discloses the claimed invention except for lug receiver with a tapered entrance with a funnel shape. It would have been an obvious matter of design choice to make the walls of the lug receiver tapered with a funnel shape, since applicant has not disclosed that the funnel shape solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a lug receiver that has a straight wall.

Response to Arguments

20. Applicant's arguments with respect to claim 14 have been considered but are moot in view of the new grounds of rejection.

Conclusion

21. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Katrina Stransky whose telephone number is (571) 270-3843. The examiner can normally be reached on Monday through Friday, 8:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, ***please contact the examiner's supervisor, Gary Jackson, at (571) 272-4697.*** The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If there are any inquiries that are not being addressed by first contacting the Examiner or the Supervisor, you may send an email inquiry to
TC3700_Workgroup_D_Inquiries@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KS/
Examiner, Art Unit 3734

/Gary Jackson/
Supervisory Patent Examiner
Art Unit 3734
October 10, 2011